

**JEFFRIES  
DECLARATION  
EXHIBIT**

***7***

Page 1

1  
2 UNITED STATES DISTRICT COURT  
3 SOUTHERN DISTRICT OF NEW YORK  
4

5 KALOMA CARDWELL, )  
6 Plaintiff, )  
7 vs. ) 19 Civ. 10256  
8 ) (GHW)  
9 DAVIS POLK & WARDWELL, )  
10 THOMAS REID, JOHN BICK, )  
11 WILLIAM CHUDD, SOPHIA )  
12 HUDSON, HAROLD )  
13 BIRNBAUM, DANIEL BRASS, )  
14 BRIAN WOLFE, and JOHN )  
15 BUTLER, )  
16 Defendants. )  
17 ----- )

18 REMOTE DEPOSITION OF  
19 THOMAS REID  
20 located in New York, New York  
21 Friday, April 16, 2021

22 Reported By:  
23 CATHI IRISH, RPR, CRR, CLVS  
24  
25

Page 2

1  
2  
3  
4  
5  
6  
7  
8 April 16, 2021  
9 9:31 a.m.  
10

11 Remote deposition of THOMAS REID,  
12 with all participants appearing via  
13 videoconference, before Cathi Irish, a  
14 Registered Professional Reporter,  
15 Certified Realtime Reporter, and  
16 Notary Public of the State of  
17 New York.  
18  
19  
20  
21  
22  
23  
24  
25

Page 11

REID

form. You can answer if you know what that means.

THE WITNESS: Sorry, can you repeat the question, Mr. Jeffries?

BY MR. JEFFRIES:

Q. Yes. The e-mails you mentioned had been authored by yourself, had you handed them over to counsel prior to meeting with them?

A. I can't recall if they were specifically handed over to me, but I do remember handing over what I did have to hand that was relevant to this matter, and of course understood and without hesitation granted permission for counsel to do electronic and physical searches of my documents at Davis Polk.

Q. I'm sorry, with respect to the permission for the searching of electronic documents, can you repeat that part?

A. I gave permission to counsel to run electronic search terms through my e-mail files and other document files awhile back, and I would imagine some of

Page 12

REID

the documents came from that. They may not have all come from my direct handing over.

Q. And you indicated that in your preparation, you reviewed the complaint that was filed by Mr. Cardwell in the Southern District; correct?

A. Yes.

Q. Have you reviewed each of the complaints that Mr. Cardwell has filed in the Southern District?

A. I think what I reviewed was the latest states but in the course of the last year and a half, I've reviewed the different iterations so -- but what I looked at recently was I think the latest.

Q. Have you read Mr. Cardwell's EEOC filing and NYS DHR filing?

A. I remember reading that back when it was filed in 2017 but from my perspective, Mr. Jeffries, when the Southern District complaint was filed, that was what I focused on since then, and I haven't heard anything about the EEOC

Page 31

REID

1 firm's managing partner; correct?

2 A. Yes.

3 Q. So I'd like to talk to you  
4 briefly about both of those positions.  
5 Can you explain what your responsibilities  
6 and duties were as the head of Davis  
7 Polk's corporate department?

8 A. It was a position I was elected  
9 to in 2008 and it was a position of  
10 oversight for the various corporate  
11 departments, both domestically and  
12 overseas.

13 Q. And how long did you serve in  
14 that capacity for?

15 A. Three years, 2008 to 2011 when I  
16 became the firm's managing partner.

17 Q. With respect to the role you held  
18 as the firm's managing partner, can you  
19 briefly describe the duties and  
20 responsibilities that came along with that  
21 position?

22 A. It was also an elected position  
23 and it was the chairman of a three-partner  
24 committee that had oversight for all of  
25

Page 32

REID

1 the practices of the firm, corporate,  
2 litigation, tax, again domestically and in  
3 the overseas offices.

4 Q. And how long did you hold that  
5 position for?

6 A. Until -- so 2011 until I left the  
7 firm just over eight years later in 2019  
8 to go to Comcast.

9 Q. I want to speak to you briefly  
10 about the policies, practices and  
11 procedures that were in place at Davis  
12 Polk during the relevant period, all  
13 right, Mr. Reid?

14 A. Sorry, what is the relevant  
15 period?

16 Q. The relevant period being  
17 September of 2014 through August of 2018.

18 A. Okay.

19 Q. Did Davis Polk have a strong and  
20 clear antidiscrimination policy between  
21 2014 and in 2018?

22 A. I believe it did.

23 Q. Can you describe what that policy  
24 was?  
25

Page 41

REID

were to be directed or recommended that they be directed, but there would have been no prohibition on any associate going to any partner or the associate development non-lawyer professional staff.

Q. During Mr. Cardwell's employment, did the firm's policies permit any lawyer or employee to report any perceived or actual issues related to discrimination, harassment or retaliation to Sharon Crane?

A. Same answer.

Q. So I will take that as a yes?

A. Did it permit, yes. Again I don't know whether or not the policy said in the first instance we recommend you go to this person or that group or that body, but it would not have said do not go to Sharon Crane.

Q. And who is Sharon Crane?

A. Sharon Crane is -- was in my time as managing partner the co-executive director, which is the most senior member of the non-lawyer administrative staff.

Q. In her capacity in that role,

Page 42

REID

would she report to you at that time?

A. Yes.

Q. Were Davis Polk's antidiscrimination, anti-harassment and anti-retaliation policies revised any time between 2014 and 2018, sir?

A. I don't know specific revisions. They were as I mentioned reviewed annually. To the extent there were changes in applicable law that needed to be reflected, they would have been updated.

Q. To the extent that revisions would have been necessary, how would you learn about the revised version of the policies?

A. In the annual certification process.

Q. As you sit here today, do you have a recollection of any specific revisions to the policies that we've discussed during the years of 2014 through 2018?

A. Specific revisions, no.

Page 43

REID

Q. Do you have a recollection of any revisions being made to the policies that we've discussed during the years of 2014 through 2018?

A. I am sure there were some revisions. I don't recall any of them specifically.

Q. During Mr. Cardwell's employment, how often did you receive training about Davis Polk's antidiscrimination, anti-harassment and anti-retaliation policies?

A. I don't recall going through any training, as you put it, but I organized and would attend various I guess you could call them training or awareness sessions on matters related to this, related to discrimination and harassment.

Q. Were those routinely scheduled, to your recollection?

A. They were pretty routine but it wasn't like they happened the same week of every year or the same week of every month, but they were frequent, let's say.

Page 44

REID

Q. Were they conducted by in-house members or outside consultants?

A. Both.

Q. Which outside consultants do you recall conducting such sessions?

A. There were several -- several outside experts in the area that we brought in to talk about the -- talk about issues like discrimination, like unconscious bias. VallotKarp was one I recall. There was a woman from the Harvard Kennedy School that we brought in once, maybe twice, but I don't recall any more specifics than that.

Q. Do you recall whether there were specific -- in keeping with the type of sessions that we're discussing, were any of those geared specifically to partners during your time at Davis Polk?

A. There were some of those sessions that were held only with partners. There were some sessions that were held with partners and associates. It would vary.

Q. Would you have attended those?

Page 77

REID

1  
2 sir, did you occasionally get updates  
3 about how busy certain associates were?

4 A. No. I mean associates as a  
5 whole, yes, but specific individuals, no.

6 Q. So is it your testimony here  
7 today that during your -- during the  
8 relevant period, you did not receive any  
9 updates about how busy specific associates  
10 were or -- let me restate that.

11 Is it your testimony today that  
12 during the relevant period, you did not  
13 receive any updates as to the availability  
14 of any specific associates, is that your  
15 testimony?

16 A. I did not receive any updates on  
17 availability of specific associates,  
18 that's correct.

19 Q. During the relevant period, did  
20 you ever receive any updates about the  
21 availability of Mr. Cardwell specifically  
22 to take on work?

23 A. I went into it myself at one  
24 point in time on my own instigation.

25 Q. What made you do that, sir?

Page 78

REID

1  
2 A. I knew Kaloma from his time at  
3 the firm as a summer associate. I'd had  
4 one or two interactions with him during  
5 his summer, and I had a meeting that I was  
6 having with him to talk about a particular  
7 question he had regarding a client of the  
8 firm in the context of the firm's pro bono  
9 program. And I hadn't spoken to  
10 Mr. Cardwell for about a year and so I  
11 looked into what he had been doing, how  
12 busy he was.

13 The year before this meeting, I  
14 had dinner with him and a colleague of his  
15 and had looked at how he was doing at that  
16 time as well, so those were probably the  
17 two occasions in which I again  
18 proactively, myself, inquired as to how he  
19 was doing and in the context of that  
20 dinner, how the other associate was doing  
21 as well.

22 Q. Turning to -- what's the  
23 earliest -- what would you say is the  
24 earliest, based off of the answers you  
25 just gave, what would you say was the

Page 131

REID

MR. BIRENBOIM: Objection to form.

THE WITNESS: What do you mean in connection with anyone else?

BY MR. JEFFRIES:

Q. Well, did you evaluate those reviews in connection with conversations or in the presence of anyone else that had knowledge about your concern about Mr. Cardwell's hours?

MR. BIRENBOIM: Objection to form and I think misstates the testimony. You can answer.

THE WITNESS: So there were two parts to this. There was the meeting I had with Ms. Katz and Mr. Cardwell about his conflict question. In preparation for that meeting, I very quickly just checked what he was working on and I saw that he wasn't working, period.

We had our meeting on the conflict issue, dealt with that. And at the end of that meeting, I raised

Page 132

REID

with him the question of his low hours and said I would follow up on that and get back to him, that we should talk about it.

BY MR. JEFFRIES:

Q. Okay.

A. When you say in connection with anybody else, Ms. Katz would have heard me say that in the meeting but I haven't spoken about his reviews at that time.

Q. But at the time of that meeting, you had reviewed the performance reviews ahead of time?

A. No, I'd seen his hours were very low at that meeting. There were two meetings in March of '17. The first one was set up to discuss his question about a potential conflict in the pro bono program. And I had seen his hours were very low going into that meeting.

And we got to the end of that meeting, and he had raised nothing about his work being so low. I did and said I wanted to get back to him on it. I wanted



Page 133

REID

to look into it and get back. And that was the second March meeting. I don't know, two or three weeks later, I don't know exactly how long but in that period of time, I actually got the reviews and read them.

Q. Mr. Reid, during the relevant period, did Davis Polk have annual firm meetings?

A. This is again the '14 to '18 period you're referring to, his employment period?

Q. Yes.

A. The Cardwell employment period. And by firm meetings, you mean partnership meetings?

Q. Yes, an annual firm meeting for the partners.

A. There's one every year, usually at the end of January, beginning of February area.

Q. I want to speak to you about the meeting that would have occurred in February of 2018; okay?

Page 134

REID

A. 2018?

Q. Yes. Did the firm have an annual firm meeting on -- or during the week of February the 5th, 2018?

A. That would be about the right time. I don't recall the exact date but that would be about the time we had every annual meeting.

Q. Did you attend that annual meeting?

A. I attended the annual meeting plenary session, if you will, with all partners together in one room Thursday afternoon and Friday afternoon and I sit throughout that.

Q. Aside from that meeting you just mentioned, were there other practice group meetings, separate meetings during the annual meeting?

A. Yes, for a couple of days before the Thursday lunchtime, the practice groups get together and talk about the year behind them, the year ahead, their strategic plans for client development and

Page 135

REID

what to do again and what -- how to improve their practice performance.

Q. I'm not sure if I asked this but did you attend the firm meeting in February 2018, did you yourself attend it?

A. I attended -- I held -- I'd start what I called the plenary session in my answer, which is where all of the partners from all its practices and offices sit down just after lunch on a Thursday and leave just after lunch on a Friday, 24 hours roughly.

Q. Did you attend any annual practice group meetings during that annual meeting period?

A. I don't recall. I didn't attend many during my time. I wanted to leave the practice groups to get on and have their own discussions. I had enough to do with the overall meeting for those 24 hours.

Q. During the meetings that occurred during the week of February 5, 2018, did any Davis Polk partners discuss

Page 136

REID

Mr. Cardwell?

A. I did not and I didn't hear anybody discussing him, but that's the extent to which I can answer your question.

Q. So would it be safe to say that you don't know if there were any discussions held about Mr. Cardwell during that meeting?

MR. BIRENBOIM: Objection to form. You can answer that question.

THE WITNESS: I know what I know and that's what I discussed and what I heard discussed and I know that Mr. Cardwell was no part of those discussions. That's the extent to which I can answer that question.

BY MR. JEFFRIES:

Q. And so to be clear, did you hear about anyone else having talked about Mr. Cardwell during that meeting?

A. I did not.

Q. Mr. Reid, were issues related to discrimination ever discussed at these

Page 137

REID

annual meetings?

A. Yes, most, if not all of the annual meetings that I chaired as managing partner, so that's before and after his employment period, we would usually have some time set aside in that 24-hour period to talk about growing a more diverse firm, unconscious bias, sometimes bringing in -- usually bringing in an outside consultant.

Q. And were issues related to harassment ever discussed at these annual meetings?

A. Yes, as part of the -- as part of those general trainings and raising awareness as to what unconscious bias is and how harassment can be -- how behavior can be perceived as harassment, I'm sure we did touch on that. But I don't recall specifically any presenter or any specific context.

Q. Would that be your same answer as to whether harassment was ever discussed at these annual meetings?

A. Yes, that would be the same

Page 138

REID

answer.

Q. Were those types of issues discussed in the annual meeting in 2018?

A. I don't recall specifically but I do recall wanting to make that theme generally be part of every annual meeting, to constantly bring it to the front of partners' minds. It's the most important meeting of the firm's year and it was the right place for that theme to be dealt with and dealt with with the use of outside experts.

Q. And with respect to outside experts, do you recall which outside experts, if any, were brought in for that annual meeting in February?

A. I referred to one earlier, a firm named VallotKarp. We also brought in the woman I referred to at the Kennedy School. Her name was Iris, spelled I-R-I-S, Bohnet, B-O-H-N-E-T. She's an author of several leading works on unconscious bias. And there was a gentleman named Chris DeSantis, who once spoke to us about

Page 139

REID

generational diversity. There may and I'm sure there were others. I just don't recall who they were at this point.

Q. And those would have been sessions for all in attendance at the annual meeting to attend?

A. Yes, all partners.

Q. Right, all partners, yes.

MR. BIRENBOIM: You're talking about 2018; right?

MR. JEFFRIES: Yes.

MR. BIRENBOIM: Okay.

BY MR. JEFFRIES:

Q. And were there non-partners that were present at that meeting?

A. There would have been the senior non-lawyer administrative staff, so Sharon Crane and her co-executive director Robin Griffiths would certainly have been there. There would have been other people, less senior, their direct reports, most of them would have been there. And then there would be the necessary support staff to do the audio/visual work and, you know, the

Page 140

REID

logistics coming in and out so that would be quite a few people.

Q. During Mr. Cardwell's employment, did the firm's partners or practice groups have any monthly meetings?

A. The firm's partners or practice groups. They would have had meetings. On what cadence, weekly, monthly, more frequent, less frequent, I wouldn't know. We had a weekly firm meeting is what I know, that again I was responsible for that, not every week, most weeks.

Q. Did you attend those?

A. Most.

Q. Were issues related to discrimination ever discussed at these weekly meetings?

A. Occasionally we would do -- we might do something to echo the discussions that were held at annual partners' meetings, but I don't recall anything specific. And we would have referred to, you know, the meetings to talk about recruiting, the meetings to talk about the

Page 145

REID

Mr. Cardwell sent on May 8, 2015 at 7:34 a.m.?

A. Yes.

Q. That e-mail was sent to Sharon Crane and Vanessa Jackson?

A. Yes.

Q. On the second page at the top, do you see where the e-mail states, "I'm not sure if 301 is still underway, but I wanted to flag in inter-office dynamic that I hope is explicitly addressed in 301. I think it would be helpful if training reminded our attorneys of the importance of saying hello and introducing themselves to attorneys that they do not know. With the summer associate program around the corner and the firm attempting to improve a number of diversity outcomes, I think this point is especially relevant. To give one example, I think we want to prevent the situation where a summer associate or junior associate (of color) sits at a table at a practice group meeting or some other meeting and no one

Page 146

REID

at that table makes eye contact or says hello for 10, 15 minutes or longer."

Do you see that, sir?

A. Yes.

Q. Did Sharon Crane or anyone else discuss the substance of Mr. Cardwell's May 8, 2015 e-mail with you?

A. No.

Q. Did you meet with Sharon Crane regarding the substance of -- well, did you meet with Sharon Crane regularly at that time in 2015?

A. Yes, on a variety of matters. Her responsibilities were quite broad.

Q. And when you say on -- well, how regularly would you meet with her?

A. I couldn't tell you precisely but maybe it's a better answer if I tell you that she was -- remind you that I said she was the co-executive director of the firm and that has -- she and Robin Griffiths. She had a portfolio of responsibilities that included legal and nonlegal personnel, finance, information

Page 147

REID

1  
2 technology, audio/visual, catering,  
3 facilities, foreign offices, leasing of  
4 space, a vast portfolio. And depending  
5 upon the issue of the day, we would meet  
6 to talk about what she needed guidance or  
7 input on. She and Robin were quite  
8 self-sufficient but there were times when  
9 the management committee needed to be  
10 involved.

11 Q. So by virtue of her position and  
12 the portfolio that you reference, would  
13 you say that you would meet with Sharon  
14 Crane with the frequency of every week?

15 A. I couldn't give you a precise  
16 answer but it wouldn't surprise me if it  
17 was every week. For example, she would  
18 attend those firm weekly lunches but there  
19 would be lots of people at those.

20 Q. Within your working with Sharon  
21 Crane, have you had an opportunity to ever  
22 discuss issues of -- issues related to  
23 diversity and inclusion?

24 A. Yes.

25 Q. And so would you say that Sharon

Page 148

REID

1  
2 Crane understood that you cared about  
3 diversity and inclusion issues?

4 A. Yes.

5 Q. Would you say that she knew that  
6 you cared about the careers and trajectory  
7 of diverse associates?

8 A. Yes.

9 Q. And against that backdrop of  
10 understanding with respect to your  
11 concerns about diversity and the careers  
12 and trajectory of diverse associates, is  
13 it your testimony that Sharon Crane never  
14 mentioned anything to you about an e-mail  
15 that she received from Mr. Cardwell in  
16 2015?

17 A. Yes.

18 MR. BIRENBOIM: Objection to  
19 form, asked and answered. You may  
20 answer again.

21 THE WITNESS: Yes, I don't recall  
22 ever discussing this e-mail.

23 BY MR. JEFFRIES:

24 Q. You said you don't recall but is  
25 it possible that you could have spoken to

Page 151

REID

A. From memory it looks like it.

Q. I'm just going to take you to paragraph 8, please. Do you see where the complaints states, "On another occasion, during a September 2015 DPW Black attorney group meeting, I raised the general issue of Black DPW attorneys being excluded in the workplace. Partners Monica Holland and Maurice Blanco and Renee DeSantis, the director of associate development, attended the meeting. After I made my comment, Ms. DeSantis directly asked whether I had personally experienced race-related exclusion at the firm. Although I answered affirmatively, and described how such exclusion is harmful to Black associates' professional development and careers, neither Ms. DeSantis nor any of the partners in attendance followed up with me about my (or others') experience."

Mr. Reid, does that accurately indicate the language in paragraph 8?

A. You read it word for word.

Q. During Mr. Cardwell's employment,

Page 152

REID

did you ever hear anything about Mr. Cardwell and other BAG members meeting with the firm's diversity committee and associate development department sometime in 2015?

A. I don't recall. I don't recall that, no.

Q. Did anyone at the firm ever give you updates regarding BAG meetings?

A. Not regularly, no. I attended what I would characterize as the most important BAG meeting of the year, which was every Friday evening before Labor Day I attended the BAG dinner for law students that had received an offer from us to join the summer class the next year.

And it was a dinner of the BAG group and the Black law students and the goal was to get to know them, and in some cases persuade them to accept our offer and not a competitor. So that was every year. I don't recall having regular interactions beyond that.

Q. And so what about on a

Page 153

REID

1 non-regular basis?

2 A. Well, with the group as a whole,  
3 I don't recall any regular interactions.  
4 There were several members in the group  
5 that I would talk to from time to time  
6 socially, but I don't recall any  
7 discussion about that BAG group and how it  
8 was working.  
9

10 Q. Well, who within the group would  
11 you -- well, withdrawn.

12 Did Sharon Crane ever give you  
13 updates about BAG meetings?

14 A. I don't recall any.

15 Q. Is it possible that she would  
16 give you updates about BAG meetings?

17 MR. BIRENBOIM: Objection to  
18 form, calls for speculation. You can  
19 answer if you have anything to say.

20 THE WITNESS: That would be my  
21 answer, I don't know. It would be  
22 speculation.

23 BY MR. JEFFRIES:

24 Q. Well, to the extent that  
25 something occurred during a BAG meeting

Page 154

REID

1 that was then brought to Sharon Crane's  
2 attention, would that be something you  
3 would expect for her to speak to you about  
4 in the weekly meeting, in your meetings  
5 with her?  
6

7 MR. BIRENBOIM: Objection to  
8 form. If you have any answer to that,  
9 you may answer.

10 THE WITNESS: Again, the same as  
11 before, a very general explanation, I  
12 said Sharon had a very broad  
13 portfolio. She is a superb  
14 professional and I trusted her  
15 judgment on what to bring to my  
16 attention and what not to bring to my  
17 attention. And I don't recall her  
18 ever disappointing me in that regard.

19 BY MR. JEFFRIES:

20 Q. Based off of your prior  
21 testimony, you would agree that it would  
22 be unusual for Sharon Crane to discuss  
23 with you something that happened at a BAG  
24 meeting that had come to her attention; is  
25 that correct?



Page 155

REID

MR. BIRENBOIM: Objection to form. You may answer, Tom.

THE WITNESS: That's not what I'm saying. Sharon is a superb professional, highly compensated, great judgment and she exercised that judgment, to my knowledge, quite nicely in terms of what issues she felt were worthy of my attention, whether that be the BAG group or any other issue in her broad portfolio.

BY MR. JEFFRIES:

Q. Did anyone at the firm ever give you updates directly about Mr. Cardwell?

MR. BIRENBOIM: Objection to form. You may answer if you can.

THE WITNESS: No, I think I got the review folder. I don't recall how I got it but beyond that, no.

BY MR. JEFFRIES:

Q. So beyond that, beyond the instances that required -- that resulted in you getting the review folders, you don't recall anyone else having direct

Page 156

REID

conversations with you about Mr. Cardwell during the relevant period?

A. The relevant period again includes right up to his departure in 2018; right?

Q. Yes.

A. So after I got involved when I noticed how low his hours were, the next step was to get his review folder and talk to him. Then there were conversations about Mr. Cardwell's performance as we -- following that second March 2017 meeting.

Q. Okay. So then as a time marker, it would be your testimony that prior to March 2017, you don't -- prior to March 2017, you didn't engage in any conversations wherein Mr. Cardwell was directly -- where anything with respect to Mr. Cardwell was directly brought to your attention; is that correct?

A. Correct. There was -- again I mentioned to you that in January 2016, I had -- I looked at his folder, his reviews then together with another colleague of

Page 157

REID

his before I attended a dinner event, just the three of us, but I don't recall discussing him in his performance or work other than reviewing those folders at that time.

Q. And you're saying that you don't recall but are you saying that -- well, do you remember hearing anything about Mr. Cardwell making comments about how he experienced exclusion at Davis Polk due to his race prior to that dinner?

A. Prior to the dinner, no.

MR. BIRENBOIM: Which dinner?

MR. JEFFRIES: The dinner in January.

THE WITNESS: The dinner in January?

BY MR. JEFFRIES:

Q. Yes.

A. No, not prior to that dinner.

Q. We talked about this dinner tangentially. Let's talk about the dinner a bit more now. Who do you remember -- well, how did that dinner come about?

Page 158

REID

A. If you recall the article about the diversity panel that you put on the screen before we just took that break.

Q. Yes.

A. So that was a City Bar event and it was not very well attended because it was an absolutely miserable evening, such that I could see in the audience Mr. Cardwell and a colleague of his. At the end of the panel, I went up to them and thanked them for coming out on such a miserable night and being there. And I said thank you for showing your support or something like that.

And they said look, it's, you know, something along the lines of, of course, it's very important to us and we should talk further and I said great, tell you what, let's have dinner or something like that. And I think the dinner took place about a month or two later.

MR. JEFFRIES: I'd like to have tab 14 moved into evidence, please.

VERITEXT CONCIERGE: We're

Page 159

REID

currently looking at tab 14.

MR. JEFFRIES: Let's move to paragraph 9.

BY MR. JEFFRIES:

Q. Now paragraph 9 reads as follows, correct, "A few months later in January 2016, I approached Tom Reid, DPW managing partner, with an inquiry about whether the firm would be willing to sponsor me to attend a Black lawyer professional development conference. Unexpectedly, Mr. Reid advised that I should not sign up for the conference, despite my explanation that such opportunities would foster relationships between Black attorneys at DPW and senior executives at Fortune 100 companies that could be leveraged for DPW business in the future. Mr. Reid ultimately agreed to sponsor our participation, but only after I and another associate spent a considerable amount of time explaining to him how this would benefit us as Black associates. In that conversation, and prior to Mr. Reid

Page 160

REID

agreeing to sponsor our participation, we also explicitly raised the institutional bias that we, as Black associates, had experienced at DPW."

So is the dinner that we are discussing at this point the meeting referenced in the paragraph that I just read?

MR. BIRENBOIM: Objection to form. I don't see reference to a meeting, but you can answer.

THE WITNESS: The dinner was in January 2016 I'm pretty sure, so that's the best answer to your question.

BY MR. JEFFRIES:

Q. With respect to what I've just read to you, the contents of January 2016, do you remember discussing a conference at the dinner?

A. Yes, I do. It was in the course of a two-hour or so dinner. If it was a five-minute discussion, I would be surprised. It was very short.

Page 161

REID

Q. And what do you remember discussing at that dinner?

A. About the conference? I think before the dinner, Mr. Cardwell had made a request that he go to this conference which I had not heard of before, and I had originally said no but let's talk about it at dinner. And as I said, we had a very short discussion at dinner and I can't remember if it was there and then or on reflection overnight or shortly after the dinner that I decided look, I'd rather that we don't have associates picking which conferences to go to for a couple of different reasons but on this occasion, given again their interest and their engagement and the terrific discussion we had at that dinner, the three of us, I decided to make an exception to the general rule.

The general rule was there so that anything like that was given on a fair access basis. And the other thing was is I wanted to be sure about what kind

Page 162

REID

of conference it was people were going to. I wanted to make sure it was worthwhile and I could use the firm resources. And I just didn't know anything about this one.

Q. How long was that dinner? How long did you spend together?

A. I didn't have a stopwatch on, Mr. Jeffries, but it would have been about a couple of hours.

Q. So would it be fair to say that aside from that conference, there were other discussion points?

A. Yes, yes.

Q. I think you referenced it as a very good dinner?

A. It was a good discussion, yes.

Q. So please, tell me other topics that were discussed during that dinner.

A. I recall similar to the point in the e-mail, I remember Mr. Cardwell and his colleague saying that he challenged that they discussed with other Black associates at other law firms on Wall Street was the problem of being noticed is

Page 163

REID

what I recall.

And I think I said look, that does come up in our -- in the presentations that I made sure the firm has on an at least an annual basis on things like unconscious bias and diversity and hopefully it will improve through time. I also said that this is a -- I think it's similar to the answer you showed me in that e-mail exchange that Sharon or Renee DeSantis or somebody made, that lawyers are not the most -- they can be socially awkward or something. And I said it does happen I think to all young lawyers, but I understand the point that we're raising in the race context.

The other thing -- we talked about, you know, what we were doing at the firm generally. They wanted to know what the presentations were that I brought to the firm's annual meeting. And then the other thing that we talked about is Mr. Cardwell reminded me of what told he me the very first time he introduced

Page 164

REID

himself to me when he was a summer associate, he reminded me of his college football career and NFL aspirations. And in that context he told me I can take and learn from tough feedback.

And one of their issues was we don't think we get the right level of feedback. And I said again, that's a general issue with associate feedback, particularly in the younger years. And again I said we have training for that for partners to give better feedback. And then I think I surprised him when I said by the way, before coming out here I looked at your review folders and I can give you what I see in those folders is my feedback, synthesizing that right now.

Q. Were there any other conversations?

A. Not that I recall. I think what I've given you is sort of a good flavor for the couple of hours we spent together.

Q. Did you make any notes or memos subsequent to this meeting with

Page 165

REID

Mr. Cardwell and the other associate?

A. No.

Q. So the recitation that you're giving at this point in time is based off of your recollection solely?

A. Yes.

Q. Do you recall whether during the course of that dinner Mr. Cardwell raised issues specific to Davis Polk about diversity and inclusion?

A. No, except insofar as he was talking about his experience and his only law firm experience was Davis Polk. But he never made any specific complaint or allegation, if that's what you're asking. And, in fact, as I mentioned in my previous answer, he and his colleague did say that this was an issue they discussed generally with their fellow Black lawyers at other Wall Street law firms.

Q. And when you say an issue, which issue are we talking about?

A. The issue of being noticed.

Q. And I think you earlier mentioned

Page 166

REID

that that issue of being noticed in that discussion, you drew some similarity between that and the e-mail that we looked at to Sharon Crane; is that right?

A. The e-mail about introducing yourself.

Q. So it would be safe to say you recognized that there's an element of racial exclusion that that conversation is founded upon; correct?

MR. BIRENBOIM: Objection to form, mischaracterizes the testimony. You may answer.

THE WITNESS: What I said was in my testimony is that that issue of being noticed is a, I think, issue of social awkwardness among the kind of people who become lawyers.

BY MR. JEFFRIES:

Q. The issue of being noticed that was being discussed was being discussed within the context of race; correct?

MR. BIRENBOIM: Objection to form, mischaracterizes the testimony.

Page 171

REID

Mr. Cardwell -- were the comments made from a position of Mr. Cardwell being employed at Davis Polk and experiences that he was personally experiencing at Davis Polk?

MR. BIRENBOIM: Objection to form. This is probably the fifth or sixth time you've asked the same question. Asked and answered. If you have anything to add, Mr. Reid, you may.

THE WITNESS: No, I have nothing to add.

BY MR. JEFFRIES:

Q. And Sheila Adams was the other associate present; correct?

A. Correct.

MR. ADAMS: Let's go to tab 15, please.

(Exhibit 10, document Bates labeled DPW\_SDNY-000099794, marked for identification.)

BY MR. JEFFRIES:

Q. Just take a moment to review,

Page 172

REID

sir.

A. (Witness perusing document.)

Q. Do you see that we are currently viewing an e-mail exchange?

A. Yes.

Q. Would you agree that it's an e-mail from Mr. Cardwell -- this includes an e-mail from Mr. Cardwell and Ms. Adams?

A. Yes.

MR. BIRENBOIM: I think that mischaracterizes the top e-mail. I don't know which e-mail we're looking at.

MR. JEFFRIES: I want us to focus on the top e-mail.

MR. BIRENBOIM: Just for the record, I want to note the top e-mail appears to be an e-mail from Ms. Adams to Ms. Adams, not to Mr. Cardwell.

BY MR. JEFFRIES:

Q. Now I just want you to note the date of that e-mail, that top e-mail.

A. January 20th, yeah.

Q. Yes, January 20th. And the date

Page 173

REID

of the dinner was on or around January 20, 2016; correct?

A. I think that's right.

Q. And were any of these topics, topics that are listed in this e-mail, discussed at the dinner between yourself, Mr. Cardwell and Ms. Adams?

A. I don't -- I recall generally the first bullet point, competitive challenges. I discuss -- I do recall specifically the second bullet point as I see it here, what makes a good partner. I don't recall the late bloomer thing discussion. I absolutely do not recall the next bullet, the racialized reviews and I do recall discussing the last point. That's when I talked about the presentations we have at annual meetings.

Q. So just turning to these last few right here, this one here, some associates have received arguably gendered and/or racialized reviews; who, if anyone, is serving as the gut-check in the review process to pick up on these comments and

Page 174

REID

sensitize the partnership to this possibility to address/fix, if needed? This is similar to what we discussed before.

Do you recall that being a topic that was discussed, sir?

MR. BIRENBOIM: Objection, asked and answered. He said he did not recall that. Mischaracterizes the testimony.

THE WITNESS: That's right.

BY MR. JEFFRIES:

Q. You do not recall that being --

A. That's the bullet point I said I did not recall. The racialized review, gendered and/or racialized review reference.

Q. And the other point that you don't recall being discussed was the one underneath it; is that correct?

A. No, that one I do recall. And as I mentioned in one of my previous answers, I talked to them about the unconscious or implicit bias presentations that we would



Page 181

REID

and framing the agenda. What caught my eye was the format's different. The last one had a gap between the third and the fourth bullet.

BY MR. JEFFRIES:

Q. Let's take this down. Mr. Reid, with respect to the dinner in January of 2016 involving Mr. Cardwell, yourself and Ms. Adams, did you speak to anyone about that dinner?

A. I asked to see their reviews before I went to the dinner so that I could be prepared to talk about them. I don't know who I asked to get those reviews but I don't recall discussing the dinner beyond that.

Q. Do you recall speaking to Sharon Crane about anything related to your dinner with Mr. Cardwell?

A. I may have said I was having it or had it but I don't recall discussing the content except perhaps the conference, request to go to the conference.

Q. Did you speak with -- at this

Page 182

REID

time, would it have been typical for you to meet with associates for dinner?

A. Yes. Again, I recall the article about the New York City Bar panel I attended. I said I thought it was important for leaders to be connected with young lawyers, be accessible and I wanted to live up to that. And I met with a number of different associates in different groups over the years I was managing partner.

Q. Now, with respect to what you said to Ms. Crane about the dinner, what did you tell her?

A. I don't recall if I did tell her much of anything other than it was happening or had happened already and also mentioning the conference permission that I had given either at this dinner or after the dinner, and again I don't recall when it was I changed my mind to give them permission to go to the conference.

Q. Would you have brought up the conversation about performance reviews?

Page 185

REID

Mr. Reid, did you speak to Renee DeSantis about the dinner that Mr. Cardwell and Ms. Adams had attended?

A. I don't recall any discussion with her about the dinner at all.

Q. Did you speak with Mr. Bick about the dinner with Mr. Cardwell and Ms. Adams?

A. I don't recall but with John, like with Sharon reflecting their seniority, I may have mentioned I was having dinner or had dinner.

Q. Did you speak with Mr. Chudd about anything related to your dinner with Mr. Cardwell and Ms. Adams?

A. No.

Q. Did you speak with Ms. Hudson about anything related to your dinner with Mr. Cardwell and Ms. Adams?

A. No, I don't believe so. No recollection.

Q. Mr. Reid, is there anything about Mr. Cardwell's performance that you told him about during the dinner that you

Page 186

REID

didn't mention today?

A. I don't think so. As I said, I didn't want to read him his whole review folder. The reviews were being given in front of another associate and I asked are you both happy for me to give you a little synthesis, a short synthesis about the folder I had seen. But I think it was punctuality or timeliness and setting expectations up front with the people he was working for.

Q. Picking up on that particular -- withdrawn.

You didn't say anything to Mr. Cardwell about him being a poor performer; correct?

MR. BIRENBOIM: Objection to form. You can answer.

THE WITNESS: What I said is these are really -- these are fixable issues, the timeliness issue and setting expectations, but they are issues that really do need to be fixed early in a corporate lawyer, any

Page 187

REID

lawyer's career.

BY MR. JEFFRIES:

Q. Did you say anything about him being behind?

A. I don't think so.

Q. Did you say anything about him receiving negative reviews?

A. I said what I saw in your review folder were these points. It was -- remember, this was his first ever set of reviews. He'd been at the firm barely a year and that was the context in which I said these are issues for a young lawyer, they need to be fixed but are fixable with the right application.

Q. And based on what you said earlier, this was during a conversation when he told you that he could receive tough feedback; is that correct?

A. Yes, he said -- yes. In fact, the review summaries came as part of an expression of hope that they could get more feedback. It was not just Mr. Cardwell but Ms. Adams as well said

Page 188

REID

they would appreciate more feedback. And in that context, Mr. Cardwell said that he was used to getting -- I think he said something like I've played for a lot of tough coaches in my career and I can take and learn from tough feedback.

MR. JEFFRIES: Can we move in tab 10, Zach? Thank you.

(Exhibit 12, document Bates labeled DPW\_SDNY-000099560, marked for identification.)

BY MR. JEFFRIES:

Q. Mr. Reid, do you see the e-mail from Rocio Clausen and Carolina Fenner to Mr. Cardwell on September 8, 2016?

A. Yes.

Q. Do you see where the e-mail states, "I hope you are well. Would you be able to assist the credit group (mainly JW Perry and Frank Manley) with some KYC, organizational materials, resolutions, certificates, et cetera for a CLIENT W deal closing later this month"?

Do you see that?

Page 191

REID

A. No.

Q. During Mr. Cardwell's employment, did you ever hear anything about him meeting with Rocio Clausen?

A. No.

Q. During Mr. Cardwell's employment, did anyone say anything about Mr. Cardwell questioning whether a credit assignment was connected to race?

A. No.

MR. BIRENBOIM: Objection to form. You can answer to the extent you have any knowledge.

THE WITNESS: No knowledge.

BY MR. JEFFRIES:

Q. Do you have any reason to believe that during Mr. Cardwell's employment, Mr. Cardwell questioned whether a credit assignment was connected to race or bias, was connected to his race or bias?

MR. BIRENBOIM: Objection to form. You can answer.

THE WITNESS: No.

///

Page 192

REID

BY MR. JEFFRIES:

Q. Do you have any reason to believe -- during Mr. Cardwell's employment, do you have any reason to believe that anyone said anything about Mr. Cardwell questioning whether his assignments were connected to race or bias?

MR. BIRENBOIM: Objection to form, no foundation. You can answer if you know.

THE WITNESS: No.

BY MR. JEFFRIES:

Q. So it's your testimony that during Mr. Cardwell's employment, you never heard any comments about Mr. Cardwell complaining about his staffing?

A. That's correct.

Q. Not even from Mr. Cardwell himself?

A. Oh, until the late March meeting, that was the first time. March 2017.

Q. So that March 2017 meeting was the first time that you had ever heard any

Page 205

REID

Q. So that would be the earliest point at which you found out about Mr. Cardwell's concerns related to that issue?

A. Yes.

Q. And the client that we're talking about, the client was -- the former client rather was GEO Group; correct?

A. Yes.

Q. And at what point did GEO Group become a former client?

A. I don't know but when I looked into it, I couldn't honestly tell you exactly when but it was some point in the prior couple of years that the work we had done for them had terminated, so some point in the two years before March 2017, I believe.

Q. Who was the relationship partner for GEO Group?

A. The relationship partner, as I recall looking into it was a retired Davis Polk partner, meaning he had retired by March 2017, was the original source of

Page 206

REID

Davis Polk doing work for that client.

Q. At this time of Mr. Cardwell's e-mails, Len Kreynin was the relationship partner for GEO Group; correct?

A. No, he had done a corporate matter for them, but I spoke to Mr. Kreynin about that and he had done one matter, had no relationship with them. It was a relationship of this by then retired litigation partner.

Q. Did you ever tell Mr. Cardwell that Len Kreynin was the relationship partner for GEO Group?

A. No.

Q. So your testimony is you never told Mr. Cardwell specifically that Len Kreynin was the relationship partner for GEO Group at all?

A. You focus very much on this term relationship partner. I knew Mr. Kreynin was not the relationship partner. I knew he had done a matter for them in the years before. So I may have said Len Kreynin knows this client but I highly doubt I'd

Page 207

REID

say he's the relationship partner because he wasn't. It was a retired Davis Polk partner.

Q. Did you ever tell Mr. Cardwell that you went and talked to Mr. Kreynin about his comments regarding GEO Group?

A. Whose comments?

Q. About Mr. Cardwell's comments about GEO Group.

MR. BIRENBOIM: Objection to form, foundation. You can answer if you have any recollection.

THE WITNESS: I may have told -- I may have told Mr. Cardwell that I had asked Mr. Kreynin about the client because I couldn't ask, as you call it, the relationship partner. He retired from the firm. And I told Mr. Cardwell that in connection with that I found out that work for that client had finished some time ago and they were not a current client and were not going to be a future client.

///

Page 208

REID

BY MR. JEFFRIES:

Q. And why would you have asked Mr. Kreynin about Mr. Cardwell's comments?

MR. BIRENBOIM: Objection to form. You may answer if you have a recollection why you didn't.

THE WITNESS: I did not talk to Mr. Kreynin about Mr. Cardwell's comments. What I talked to Mr. Kreynin about was who is this company, what do we do for them, are we still in touch with them.

BY MR. JEFFRIES:

Q. Did you tell anyone other than Ms. Katz about Mr. Cardwell's request?

MR. BIRENBOIM: Objection to form. You may answer.

THE WITNESS: As I said, Sharon Katz contacted each of the three members of the management committee and shared what the nature of Mr. Cardwell's question was there. I don't recall it being shared beyond that group.

Page 209

REID

BY MR. JEFFRIES:

Q. Did you ask any other M&A partners about Mr. Cardwell's request?

A. No.

Q. And you didn't normally get this type of request from an associate; correct?

MR. BIRENBOIM: Objection to form, use of the word "request." Go ahead, you can answer.

THE WITNESS: This was a rare concern raised by an associate about a conflict. He was asking about an ethical conflict under New York Bar Association rules, which it was not. And that would be a pretty rare thing for an associate to do, yes.

BY MR. JEFFRIES:

Q. So is it your testimony that Mr. Cardwell's e-mails about the firm's relationship with a client stayed between yourself, Ms. Katz and who else, if anyone?

A. Mr. Bick and Mr. Rouhandeh, the

Page 210

REID

two other members of the management committee. I know for sure -- I don't recall the e-mail being shared beyond that group, I just don't recall.

Q. When did you speak to Mr. Bick about Mr. Cardwell's comments regarding the client, the former client?

A. I don't recall speaking to Mr. Bick about Mr. Cardwell's questions. I think what happened next is Sharon Katz and I -- I looked into it to find out more about this company, this client, former client of the firm that I had never heard of, and then went -- got that information from Mr. Kreynin that they were a former client, that they weren't going to become a current client again, that the partner who had brought them into the firm had since retired, and then I think I went with that information to give that explanation to Mr. Cardwell, as well as telling him the fact, for the record, there had been no ethical conflict under our professional conduct rules. But not

Page 211

REID

withstanding that, this was a past client, former client and wasn't going to become a current client.

Q. Mr. Reid, on or around March 21, 2017, you became aware that Mr. Cardwell asked the firm if he could review his personnel file and performance reviews; correct?

A. Yes, that was between the two meetings I had with him in March, I think.

Q. And how did you become aware of Mr. Cardwell's request?

A. I don't recall specifically but I believe it was somebody in the Sharon Crane, Renee DeSantis area.

Q. Was that request communicated to you orally -- was information about that request rather communicated to you orally or by e-mail, in some other fashion?

A. I think it was an e-mail and all I heard about it was the fact that he had requested the reviews.

Q. Did the firm allow Mr. Cardwell to see any documents that were part of his

Page 212

REID

personnel file or performance reviews?

A. I don't believe so.

Q. Why not, sir?

A. Our policy for the longest time has been not to share the review files with the reviewed person.

Q. Who would be responsible for knowing the policy surrounding that issue?

MR. BIRENBOIM: Objection to form. The witness just testified to it. You can answer.

THE WITNESS: I mean it would have been the review files are kept by the associate development folks that are assigned to the practice group concerned, and so they would be responsible for complying with that policy.

BY MR. JEFFRIES:

Q. Who made the decision that it was against firm policy to allow Mr. Cardwell to see any documents that were part of his personnel file or performance reviews?

A. Well, I was certainly fine with



Page 215

REID

THE WITNESS: There were a few meetings.

BY MR. JEFFRIES:

Q. I want to turn to the second meeting at this point in time.

A. Um-hum.

Q. Do you remember that second meeting was on March 29, 2017?

A. It was at the very end of March. That sounds right.

Q. Aside from yourself and Mr. Cardwell, do you remember if anyone else was involved?

A. Mr. Kreynin.

Q. Why did that meeting take place?

A. That's the connection to the first March meeting where we discussed the for-profit prison group and the fact that they were a former client. And we then went on to talk about a broad-ranging discussion, for-profit prisons generally, actually, and the Ava DuVernay movie that was released around that time, 13th.

And at the very end of the

Page 216

REID

meeting as we were literally breaking up, I said to Mr. Cardwell, I said that I had taken a look at his hours before the meeting and they were extremely low and I wanted to look into why and I would be following up with him and get back to him. And that's why we had that meeting on March 29th.

Q. So the meeting on March 29th was the follow-up as you indicated?

A. Yes.

Q. What do you remember about that meeting on March 29?

A. I started by saying this is the follow-up. And I said that I looked into his performance reviews from the previous annual cycle, fall of 2016, and I said that I'd seen in part some of the same issues that I had spoken to him about at the January 2016 dinner, issues of timeliness and expectation settings I mentioned before, but I said I also had seen some additional issues that were really quite serious and that I'd invited

Page 217

REID

Mr. Kreynin there to talk to one of those issues and to share his perspective on that particular episode.

Q. And what else do you remember about the conversation?

A. Well, I think what happened next is that Mr. Kreynin talked about this particular episode where Mr. Cardwell had got the wrong signatory to a particular contract that he was working on for Mr. Kreynin. Mr. Cardwell dismissed that as merely just a typo and he seemed to be oblivious to the actual legal consequences of a mistake like that in a legally binding contract.

And I said it wasn't just a typo and that the performance issues generally were not just typos and that it wouldn't be just typos that would cause his work to dry up so dramatically as it had done so in the previous few months.

Q. During that meeting, you indicated that Mr. Cardwell's lack of work in the previous few months was related to

Page 218

REID

his performance?

A. I said the explanation that was clear to me was that the performance reviews were bad enough that people had lost confidence in him and he wasn't getting work.

Q. And it's your testimony --

A. Based on the quality of his work as reflected in the performance reviews, for not one but two years now.

Q. And you had reviewed those performance reviews prior to the meeting; correct?

A. Yes.

Q. And it was your assessment that the performance reviews that you reviewed justified him not receiving any work for the series of months leading up to that meeting?

A. It was a cause and effect explanation. I wouldn't use a term like justification. It was a cause and effect explanation.

Q. Were there any other causes?

Page 221

REID

1  
2 When I said to him that -- when I reminded  
3 him of the I can take tough feedback  
4 affirmations that he had made to me twice  
5 before and that I didn't think he was  
6 living up to that, and that this meeting  
7 was about tough feedback and about  
8 managing his career, he then started to  
9 assert that the reason he wasn't getting  
10 work was because he had been, a word he  
11 then started to use, repeat several times,  
12 he had been racialized.

13 Q. Did he ask you any questions?

14 A. He -- after he said I believe  
15 I've been racialized, I had previously  
16 said to him that a mistake we Davis Polk  
17 partners had made was in not giving him  
18 this tough feedback hot on the heels of  
19 his annual review at the end of the  
20 previous year.

21 And instead, what had happened  
22 was several months of inactivity had gone  
23 by. I said we should have been on it  
24 then, we should have been having a  
25 conversation like this then, and we should

Page 222

REID

1  
2 have been structuring a program of mixed  
3 assignments with different -- mixed  
4 partners who were good teachers. And I  
5 said look, this is tough feedback but it's  
6 not like you've been inactive for any more  
7 than three or four months.

8 You're hopefully going to have a  
9 long career and we'll recover these three  
10 or four months, if you're the same  
11 Mr. Cardwell that I remember with the  
12 impressive ambition from your summer  
13 associate days and from as recently as  
14 January 2016.

15 Q. Did you say a mistake was made or  
16 did you tell him that the mistake was that  
17 you didn't give him tough feedback?

18 A. I said the mistake was made that  
19 we hadn't sat down with him and had the  
20 conversation that said this is more than a  
21 bad review, this is a review that  
22 indicates you need some intensive coaching  
23 to see if you can do the job we need you  
24 to do here in the corporate department at  
25 Davis Polk. We had not sat down, put it

Page 237

REID

1  
2 unconnected.

3 Q. Well, they have been connected  
4 for the past five minutes.

5 A. You talked of his complaint.  
6 What I was looking for was to make sure  
7 the reviews had been done carefully with  
8 specific examples of poor performance.  
9 They had. His complaint about  
10 racialization came after I confronted him  
11 with specifics, Mr. Kreynin confronted him  
12 with his personal experience of his poor  
13 performance.

14 The first time Mr. Cardwell made  
15 a specific racial complaint about the way  
16 he was being treated was after I had  
17 brought to his attention his low hours and  
18 I had explained the cause of those low  
19 hours, poor performance.

20 Q. And you went and evaluated his  
21 performance reviews; correct?

22 A. Yes.

23 Q. What was that treatment about --

24 A. When you say treatment, what do  
25 you mean?

Page 238

REID

1  
2 MR. BIRENBOIM: Objection -- you  
3 need to give counsel time to object if  
4 there's an objection.

5 BY MR. JEFFRIES:

6 Q. The treatment I'm talking about  
7 is the performance reviews, the  
8 negative -- withdrawn.

9 You said Mr. Cardwell complained  
10 about treatment; correct?

11 MR. BIRENBOIM: Objection to  
12 form. You may answer, Mr. Reid, if  
13 you have anything to add.

14 THE WITNESS: I have nothing to  
15 add to what I said before, which is he  
16 complained that he had been racialized  
17 after I and Mr. Kreynin had given him  
18 examples about why his performance was  
19 suffering badly.

20 BY MR. JEFFRIES:

21 Q. What is the conduct that he was  
22 complaining about, Mr. Reid?

23 A. I think he was linking the  
24 racialization to the fact that he had had  
25 no work or very little work for the

Page 241

REID

A. Yes, I did. Yes.

Q. What did you say? Describe that, please.

A. Sorry, I cut you off. What did I say and then?

Q. Tell me what you said.

A. You recall in one of our previous Qs and As, I told you about what I said to him having looked into his performance reviews, and he had dismissed those -- repeatedly dismissed those as our being, Mr. Kreynin and I exaggerating a typo, a mere typographical error.

I reminded him of what he told me before on two occasions that he had had tough coaches and could take tough feedback from his college football experience. And I had said I don't think you're living up to that. I'd also reminded him of our January '16 dinner where I said you've got to make your own career, you've got to really work hard, it requires enormous sacrifice and I don't see you leaning in the way you do. And I

Page 242

REID

said to -- again, I probably tried to tap into that college football. I said you've got to get in the game or you'll find yourself off the field, or words to that effect.

Q. What did that mean when you said --

A. Yes, it was connected to what I told him in January, which is that there are things that your law firm will do for you but largely, it's about application and hard work and attending to what needs to be -- to the flaws that you have, we all have, that need to be fixed. And we needed to see a lot of application to turn this around with the mixed diet of assignments and partners that were good teachers that he could work with, and that he needed to lean in and embrace that and not just dismiss this issue that Mr. Kreynin was talking about as just a typographical error.

Q. And the portion of that comment in regards -- I believe part of your

Page 253

REID

Q. And this is an e-mail from Mr. Cardwell to Mr. Goldberg?

A. Yes, yes.

Q. And the date sent was May 22, 2017 and the subject is checking in; correct?

A. Yes, yes.

Q. During Mr. Cardwell's employment, did you ever hear anything about him contacting Louis Goldberg about how his experience at Davis Polk had made him physically ill?

A. I knew he had taken time off for medical leave. I didn't know about this particular contact or explanation.

Q. When did you find out about this particular contact?

MR. BIRENBOIM: Objection to form, no foundation.

BY MR. JEFFRIES:

Q. I'll restate it.

Is today the first day you found out about this particular contact between Mr. Cardwell and Mr. Goldberg?

Page 254

REID

A. I don't recall. I may have heard about it after that there had been some explanation to Louis but -- i.e., as to why he needed to take medical leave, but I don't recall the specifics here and I certainly don't recall this e-mail which I'm not on.

Q. During Mr. Cardwell's employment, did you ever hear anything about Mr. Cardwell, Louis Goldberg and Sharon Crane having a meeting?

A. No, I did not hear about that meeting. I knew that he was in contact with Louis at this point in time because following the March 29th meeting, Louis was one of the first good teaching partners that we -- that Mr. Cardwell worked with.

Q. Did you have any conversations with Sharon Crane about this meeting between Mr. Cardwell, Mr. Goldberg and Sharon Katz?

MR. BIRENBOIM: Objection to form, no foundation. You can answer,

Page 271

REID

the medical leave point.

BY MR. JEFFRIES:

Q. Mr. Reid, when did you first become aware that Mr. Cardwell filed a complaint with the EEOC and NYS DHR?

A. I believe shortly after it was served in the summer of 2017.

Q. How did you find out about it?

A. We received a copy. The firm received a copy.

Q. Aside from the firm receiving a copy overall, how did you specifically find out about it?

MR. BIRENBOIM: Objection to the extent it calls for the disclosure of communications with counsel. Otherwise you may answer.

THE WITNESS: I don't recall how I got it. By that I mean I don't recall how it was to sent to me, who sent it to me. I do remember seeing it.

BY MR. JEFFRIES:

Q. By virtue of seeing it, what was

Page 272

REID

your understanding about the complaint made by Mr. Cardwell, what did it allege?

MR. BIRENBOIM: Objection to form. You may answer.

THE WITNESS: It alleged what I read in the complaint.

BY MR. JEFFRIES:

Q. And I'm asking for your recollection about that.

A. It was more by way of detail to follow up on his March 29th allegation of racialization, of being racialized.

Q. And that was after his March 29th complaint; correct?

MR. BIRENBOIM: Objection to form, misstates testimony. You may answer.

THE WITNESS: August is after the March 29th meeting and what was said there. If that's what you're asking, the answer is yes.

BY MR. JEFFRIES:

Q. How did you react to Mr. Cardwell's EEOC complaint?

Page 277

REID

conversation I had, I believe, with Lee Hochbaum, who I believe was also one of the good teaching partners that I mentioned before, that he and Mr. Cardwell did some work for.

Q. Just before we move off of this, what about with respect to Sharon Crane, did you have any conversations with Sharon Crane about Mr. Cardwell after the March 29th -- after the March 29th meeting, but before the May 23rd e-mail from her to you?

A. I don't recall any.

Q. Were you involved in any way in the drafting or creation of any of the information that appeared in Davis Polk's NYS DHR answer and position statement in response to Mr. Cardwell's complaints?

MR. BIRENBOIM: You can answer that yes or no.

THE WITNESS: The answer to the -- when was that filed, the answer?

MR. JEFFRIES: Just one moment.

Page 278

REID

December 5th.

THE WITNESS: December 5th?

BY MR. JEFFRIES:

Q. Yes.

A. Of 2017?

Q. Yes.

MR. BIRENBOIM: I'm just cautioning the witness not to disclose any communications with inside or outside counsel in connection with the preparation of that document.

THE WITNESS: Yes, and I'm sure I read it and in particular with regard to anything it said about me for accuracy.

BY MR. JEFFRIES:

Q. Okay. And just to be clear, I'm not asking you to disclose the details. I think we've been through this before. I'm asking you, and you can answer this yes or no, whether or not you were involved in any way in the drafting or creation of any of the information that appeared in Davis Polk's NYS DHR answer and position



Page 283

REID

form. I don't know how he can answer what is in other people's heads but to the extent you know, you can answer.

THE WITNESS: All I can say is that the EEOC complaint was served against the firm, Davis Polk, the answer was filed by the firm, Davis Polk, not by me personally, the answer was prepared with the advice from expert counsel, so that would lead me to believe that I wasn't the only person that thought that bad performance was the root cause.

BY MR. JEFFRIES:

Q. So I'm just asking you, Mr. Reid, who of any of the people we mentioned, were there any other people who expressed to you a belief that Mr. Cardwell's performance was the result of his non-staffing and low hours and with respect to his experience at the firm when you spoke to them about Mr. Cardwell?

MR. BIRENBOIM: Objection to form.

Page 284

REID

THE WITNESS: I think you have got the question the wrong way around. You're asking a question about a belief that his inactivity was caused by his poor performance. I did not discuss that question with either Mr. Goldberg and Mr. Hochbaum. What I discussed with them were their experiences about working with him during the months that followed his return to work after the March 29th conversation and the problems that they'd experienced working with him and in his performance again.

BY MR. JEFFRIES:

Q. That's helpful, thank you. What did they tell you?

A. What I learned from Mr. Goldberg is that Mr. Cardwell seemed to lack any fundamental grasp of basic corporate law concepts, and that one particularly disappointing episode was when Mr. Goldberg had to substantially rewrite work product he had been given by

Page 285

REID

Mr. Cardwell, sat down with Mr. Cardwell, gave him direction as to how to take it on to a subsequent draft and do a better job. And when he got the subsequent draft back it wasn't much better, and there were notes in it saying I haven't done the legal research to substantiate what I'm writing here, I'll do that later, to that effect.

With Mr. Hochbaum, he worked with Mr. Cardwell on an assignment from one of the firm's financial clients. Again, it was -- what was recounted to me was lack of understanding of basic corporate law concepts, including in that context the liability exposure of the client and what was a publicly filed SEC disclosure.

Q. So let me just make sure that I heard you correctly. You were told that Mr. Cardwell lacked basic corporate law concepts; is that correct?

A. I was told that he didn't seem to appreciate in both those assignments some concepts that would be pretty basic.

Page 286

REID

Q. And beyond that, I'm using your words, so I just want to make sure that we have the same understanding of the nature of the criticisms. Your words when you first stated it were that he lacked basic -- he lacked a basic understanding of corporate law concepts; is that correct? That was what your -- that was what was conveyed to you?

A. Lacked it and -- lacked it and did not acquire it despite intensive coaching by both those partners.

Q. Lacked --

A. Acquire.

Q. Thank you. And I think I also heard in your response that there was a concern about liability to clients based off of Mr. Cardwell's deficiencies; is that correct?

A. No, no, what I said was a lack of understanding that the particular matter that he was working on with Mr. Hochbaum involved disclosure to which our client needed to put his name and therefore, it

Page 309

REID

however you wish, whether it's yes or no or otherwise.

THE WITNESS: With supervision, any associate can do M&A work.

BY MR. JEFFRIES:

Q. At what point did the firm and M&A partners decide that staffing Mr. Cardwell was unworkable?

A. I think several months -- after several months experience with projects like the ones we've talked about following his return to work after the March 29th meeting.

Q. So that wasn't at the time he was being staffed on pitches; correct?

MR. BIRENBOIM: Objection to form. If you have a recollection you can testify.

THE WITNESS: It was after -- this is August 31, 2017. Again, it was -- this was part of the program of getting him more work and I don't think any conclusion had been reached there -- then.

Page 310

REID

BY MR. JEFFRIES:

Q. This program that you've discussed a few times, who was responsible for this program, who was involved in this program of getting Mr. Cardwell work?

A. John Bick was -- being M&A partner and at the time the head of M&A, took it to make sure that he got a good mix of projects.

Q. And when did you find out about this -- when did you find out about this plan?

MR. BIRENBOIM: Objection to form.

THE WITNESS: When?

BY MR. JEFFRIES:

Q. When did you find out about this approach that Mr. Bick was taking towards trying to make sure that Mr. Cardwell got a good mix of work?

A. This is what I said to Mr. Cardwell in the March 29th meeting, that I wanted to do to try and recover the lost ground of three or four months of

Page 311

REID

very close to zero activity and that we put in place, we continued to go forward with once he came back from the leave he asked for in April.

Q. So when he came back from the leave, there was a plan in place to help him get work; is that correct?

A. The plan was we would look for a good assignment, a good mix of assignments, good teaching partners and get him that work.

Q. So let me get this straight. Mr. Cardwell goes on leave and returns; correct?

A. Yes.

Q. And --

A. I don't recall exactly when he returned. It was several weeks of leave.

Q. And upon his return, were there -- was there an understanding of what he would walk into and what kind of assignments would be given to him when he returned or was he --

A. A variety --

Page 312

REID

Q. -- took place --

MR. BIRENBOIM: Let Mr. Jeffries finish the question.

THE WITNESS: Sorry, I thought he had.

BY MR. JEFFRIES:

Q. When Mr. Cardwell returned or around the time Mr. Cardwell returned, was there a plan in place as to the type of work he would be getting or was that something that had to be developed after he returned?

MR. BIRENBOIM: Objection to form. If you know you may answer.

THE WITNESS: The only thing I recall was it was going to be a good mix, different kinds of work, different partners.

BY MR. JEFFRIES:

Q. Now, Mr. Cardwell actually ended up being terminated; correct?

A. Correct.

Q. And so the plan around staffing him clearly changed. When did that

Page 313

REID

1 change?

2 A. I'm not sure why you say it  
3 clearly changed.

4 Q. Well, he ended up being  
5 terminated; right? That's not the same as  
6 finding work for him to -- finding things  
7 for him to work on.

8 MR. BIRENBOIM: Objection to  
9 form, mischaracterizes the testimony.  
10 You may answer.

11 THE WITNESS: He -- if you're  
12 saying that by not being at the firm  
13 he wouldn't have had any firm work to  
14 do, I guess that's correct.

15 BY MR. JEFFRIES:

16 Q. The firm went from staffing him  
17 on matters and potential deals to telling  
18 him he should move on because the staffing  
19 situation became unworkable. How did that  
20 change occur?

21 MR. BIRENBOIM: Objection to  
22 form. If you understand the question,  
23 you can answer it.

24 THE WITNESS: The reports of the  
25

Page 314

REID

1 partners for whom he had been staffed  
2 fed into, I believe, his annual  
3 review. I believe the process played  
4 out at the end of the year, the annual  
5 review season beginning in the  
6 following year. And in addition to  
7 the reports of Mr. Hochbaum and  
8 Mr. Goldberg, I understand -- I didn't  
9 talk to them directly -- but I  
10 understand there were also severely  
11 critical reviews from Mr. Mills and  
12 Mr. Amorosi who he worked with as  
13 well.

14 BY MR. JEFFRIES:

15 Q. Mr. Reid, who made the decision  
16 to terminate Mr. Cardwell?

17 A. I think I just said the consensus  
18 of the partners who had been involved in  
19 looking at his work closely, working with  
20 him closely when he came back in I believe  
21 late April of 2017 for the next several  
22 months. The consensus was that what they  
23 had seen was a level of performance that  
24 the fairest thing to do was to say we  
25

Page 315

REID

don't see it working out here and take some time to look around and find another opportunity.

Q. Are you saying Lee Hochbaum had a role in terminating Mr. Cardwell?

MR. BIRENBOIM: Objection to form, mischaracterizes the testimony. You may answer.

THE WITNESS: He gave a performance report is what I said.

BY MR. JEFFRIES:

Q. I'm asking you who made the decision to terminate Mr. Cardwell. Can you state their names?

A. Decisions like that are made by consensus at the firm, the Davis Polk firm, consensus of the partners who have worked with the associate concerned. I wasn't part of any discussion among those partners with a view to that decision. I was basically told that things were not working out despite the firm's best efforts over the previous -- over the time since March 29th, but again, that's what I

Page 316

REID

recall. I was not in the discussion that took a look at his performance over that period.

Q. So you were not a part of those discussions in any way; is that correct?

A. It was reported to me -- sorry.

MR. BIRENBOIM: Form. Go ahead.

THE WITNESS: It was reported to me the consensus of the group was that this was not going to turn around. So I was involved to that extent and when I heard that and the view was the better thing for Mr. Cardwell was to start afresh somewhere else. And when you leave Davis Polk, there are many fantastic opportunities. I recognized and accepted that decision.

BY MR. JEFFRIES:

Q. Mr. Reid, when did Davis Polk begin anticipating litigation with Mr. Cardwell?

MR. BIRENBOIM: Objection to form and please don't disclose any conversations with counsel. If you